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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,280	10/16/2001	Stefan Wahl	Q66453	2065
7590 09/29/2005 SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213			EXAMINER NGUYEN, PHUONGCHAU BA	
			ART UNIT 2665	PAPER NUMBER
DATE MAILED: 09/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/977,280

Applicant(s)

WAHL ET AL.

Examiner

Phuongchau Ba Nguyen

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7-6-5.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 8,12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-2, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Contantinof (6,822,961).

Regarding claims 1-2, 14,

Contantinof in figs 10-14 clearly illustrate the edge device interface 26, which couples between a large time division, multiplexed (TDM) switch such as a very large telephone switching office (col. 12, lines 10-16) and ATM network. The claimed "access control unit" is met by "TDM" and the claimed "at least one bidirectional access network" is met by "TDM" and the claimed "one ATM core

Art Unit: 2665

network" is met by the "ATM" shown in any one of the figs 10-14. The claimed "means for ..." is met by the manager 39 inside the interface 26. As disclosed in col. 5, line 65 to col. 6, line 4, and the manager 39 controls the use of switched virtual connections (SVC).

Regarding claim 3, Constantinoof discloses an access control unit (TDM) further comprising a receiving unit (master cache pool manager) to receive requests of subscribers for ATM connections with individual parameters (col.6, lines 1-5).

Regarding claim 4, Constantinoof discloses wherein each request includes an individual subscriber address or identification, a bandwidth request and a service category request (col.6, line 3, any particular connection request; also see col.6, lines 1-16).

Regarding claim 5, Constantinoof discloses wherein the means perform the assignment of the requested resources automatically after authentication and out of the limited bandwidth of the ATM core network interface (col.9, lines 23-43).

Regarding claim 6, Constantinoof discloses wherein no bandwidth is assigned if the requested bandwidth is not available (col.9, lines 25-28).

Art Unit: 2665

Regarding claim 7, Constantinoof discloses wherein the means (TDM) create a new Finite State Machine for each new ATM connection to store the connection status (col.9, lines 25-43).

Regarding claim 9, Constantinoof discloses wherein the means is able to change the reservation of bandwidth from time to time for each ATM connection and for each direction (col.2, lines 46-58).

Regarding claim 10, Constantinoof discloses wherein the change of the reservation is performed depending on the volume of data to be transmitted or the service requested (col.2, lines 46-58).

Regarding claim 11, Constantinoof discloses wherein the means (TDM) are able to perform translations between ATM traffic parameters and MAC specific parameters (col.6, lines 39-51, by extracting information from the IAM (ATM parameter) to determine the edge device (MAC parameter)).

Regarding claim 12, Constantinoof discloses wherein the means (TDM) include a central management instance with a predefined database containing all access

Art Unit: 2665

network elements identified by their MAC address (col.3, lines 7-37, each SVC in cache pool has identified MAC addresses of two ended edge devices).

Regarding claim 13, Constantinof discloses wherein the means are adapted to perform permanent virtual connections (PVC) (col.1, lines 44-55).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2665

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Constantinof (6,822,961) in view of Morris (6,275,493).

Constantinof discloses Method and Apparatus for Reduction of Call Setup Rate in an ATM Network. In Constantinof, the call manager 38-Figs.1-2 has an interface to the ATM network 2-Fig.2 to permit call setup and bandwidth in the ATM network. Further, the cache management controls the use of SVC resource and balance the use of bandwidth and switching resources, see column 5, line 33 to column 6, line 33. In Constantinof, the master cache pool manager 39-Fig.2 determines which SVC will be used for any particular connection request and determines when new SVCs will be added to a cache pool or deleted from the cache pool, see column 2, lines 50-58. In other words, the system of Constantinof provides dynamically adjustable ATM Switched Virtual Connections-SVCs (corresponding to *means for adapted to perform ATM signalling and resource management to provide dynamically adjustable ATM switched virtual connections (SVC) for subscribers connected to a bidirectional access network, wherein an ATM core network and the bidirectional access network are interfaced*).

Constantinof does not explicitly disclose (1) that *a computer program code means* for providing dynamically adjustable ATM Switched Virtual Connections-SVCs when the program is run on a computer.

Morris discloses Method and Apparatus for Caching Switched Virtual Circuits in an ATM network. In Morris, monitoring SVC usage and adding SVCs

Art Unit: 2665

to or removing SVCs from is managed by software, see column 5, lines 31-45 and also see column 4, lines 13-22 (corresponding to (1)).

Constantinof and Morris are analogous art because they are from a similar problem solving area, to use the cache Switched Virtual Circuits-SVCs to facilitate connection setup through the ATM network.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the computer program or software of Morris with Constantinof.

The suggestion/motivation for doing so would have been to ensure an appropriated number of cached SVCs are available for the rapid establishment of communication connections with the software program.

Therefore, it would have been obvious to combine Morris with Constantinof to obtain the invention as specified in claim 15.

#### ***Allowable Subject Matter***

6. Claim 8, 12 are objected to but would be allowable if the objections set forth above are overcome.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.



Art Unit: 2665

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 571-272-3148. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phuongchau Ba Nguyen  
Examiner  
Art Unit 2665

DUCHO  
PRIMARY EXAMINER



9-22-05